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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,615	08/25/1999	EDWARD L. SINOFKY	101327-126	5467

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EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 01/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/382615

Applicant(s)

Senigofsky

Examiner

d-shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE — 3 — MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on October 18, 2001
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-24 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Dr

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 21 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Isner et al.
3. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Samson et al.
4. Claims 1-12, 15-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kittrell et al in combination with Heaven. Kittrell et al teach a device as claimed except for the particular deflection member. Heaven teaches a deflection member (see figure 1) which has a cut out and, when viewed in profile, an hour glass shape wherein the width of the cut away portion is less than the diameter of the non-cut away portion. It would have been obvious to employ the elongated ^{and} the deflection member of Heaven in the device of Kittrell et al for example in place of element 140 in figure 14 since Kittrell et al envision a wide variety of deflection mechanisms, and to form the deflection member so as to run from the proximal end of the catheter, since this would provide greater strength as shown by Heaven, thereby rendering the cutout at the distal end of the deflection member, and to form the member or surround the member with a fluoropolymer, since these are notorious for use in catheters and provide a lubricious surface official notice which has already ^{been} taken, and to provide the particular location of the cutout, since this is not critical and provides no unexpected result, thus producing a device such as claimed. Dr

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5. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kittrell et al in combination with Heaven as applied to claim 12 above, and further in view of Vassiliadis et al.

Vassiliadis et al teach the use of gold coating on a laser applicator. It would have been obvious to the artisan of ordinary skill to employ a gold coating, as taught by Vassiliadis, since this would protect tissue from unintended irradiation, thus producing a device such as claimed.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al in combination with Kittrell et al. Samson et al teach a method such as claimed except for the measuring and controlling steps and the use of a slideable conductor. Kittrell et al teach the equivalence of slideable and fixed conductors and the desirability of measuring reflected light and controlling the energy based on that, thus it would have been obvious to employ the particular laser ablation method of Kittrell et al in the method of Samson et al, since Samson et al give no particulars of the laser ablation method, thus producing a method such as claimed.

a. Applicant argues that the claims recite a tube within a tube. The rejection has been amended to provide this combination. It is noted that the structure recited does not manipulatively affect the method.

7. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

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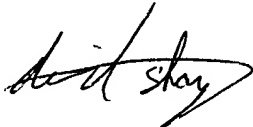
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 208-2217.

David Shay:bhw

January 17, 2002


DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330